

§ 108A-63. Medical assistance provider fraud.

(a) It shall be unlawful for any provider of medical assistance under this Part to knowingly and willfully make or cause to be made any false statement or representation of a material fact:

- (1) In any application for payment under this Part, or for use in determining entitlement to such payment; or
- (2) With respect to the conditions or operation of a provider or facility in order that such provider or facility may qualify or remain qualified to provide assistance under this Part.

(b) It shall be unlawful for any provider of medical assistance to knowingly and willfully conceal or fail to disclose any fact or event affecting:

- (1) His initial or continued entitlement to payment under this Part; or
- (2) The amount of payment to which such person is or may be entitled.

(c) Except as otherwise provided in subsection (e) of this section, any person who violates a provision of this section shall be guilty of a Class I felony.

(d) "Provider" shall include any person who provides goods or services under this Part and any other person acting as an employee, representative or agent of such person.

(e) In connection with the delivery of or payment for benefits, items, or services under this Part, it shall be unlawful for any provider of medical assistance under this Part to knowingly and willfully execute, or attempt to execute, a scheme or artifice to:

- (1) Defraud the Medical Assistance Program.
- (2) Obtain, by means of false or fraudulent pretenses, representations, or promises of material fact, any of the money or property owned by, or under the custody or control of, the Medical Assistance Program.

A violation of this subsection is a Class H felony. A conspiracy to violate this subsection is a Class I felony.

(f) It shall be unlawful for any provider, with the intent to obstruct, delay, or mislead an investigation of a violation of this section by the Attorney General's office, to knowingly and willfully make or cause to be made a false entry in, alter, destroy, or conceal, or make a false statement about a financial, medical, or other record related to the provision of a benefit, item, or service under this Part.

(g) It shall be unlawful for any person to knowingly and willfully solicit or receive any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in-kind:

- (1) In return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this Part.
- (2) In return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this Part.

(h) It shall be unlawful for any person to knowingly and willfully offer or pay any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in-kind to any person to induce such person:

- (1) To refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this Part.
- (2) To purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this Part.

- (i) Subsections (g) and (h) of this section shall not apply to:
 - (1) Contracts between the State and a public or private agency where part of the agency's responsibility is referral of a person to a provider.
 - (2) Any conduct or activity that is specified in 42 U.S.C. § 1320a-7b(b)(3), as amended, or any federal regulations adopted pursuant thereto.
- (j) Nothing in subsections (g) and (h) of this section shall be interpreted or construed to conflict with 42 U.S.C. § 1320a-7b(b), as amended, or with federal common law or federal agency interpretations of the statute. (1979, c. 510, s. 1; 1981, c. 275, s. 1; 2009-554, s. 3; 2010-185, s. 1.)